

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

TONY CACCAVALE, ANTHONY  
MANGELLI, DOUGLAS SORBIE, and  
JAMES BILLUPS, individually and on behalf  
of all others similarly situated,

Plaintiffs,

-against-

HEWLETT-PACKARD COMPANY A/K/A  
HP INC., HEWLETT PACKARD  
ENTERPRISE COMPANY, and UNISYS  
CORPORATION,

Defendants.

Civil Action No. 20-CV-00974 (GRB)(AKT)

**HP INC., f/k/a HEWLETT-PACKARD  
COMPANY'S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' SECOND AMENDED  
CLASS AND COLLECTIVE ACTION  
COMPLAINT**

HP Inc., f/k/a Hewlett-Packard Company ("HPI" or "Defendant"), by its attorneys McCarter & English, LLP, answers Plaintiffs' Second Amended Class and Collective Action Complaint (the "Complaint") and asserts affirmative defenses as follows:

**ANSWER**

1. Denied.
2. Denied. The allegations in Paragraph 2 do not pertain to Defendant and, therefore, are denied.
3. Denied.
4. Denied. The allegations in Paragraph 4 do not pertain to Defendant and, therefore, are denied.
5. The allegations in Paragraph 5 are conclusions of law to which no response is required. Defendant does not dispute subject matter jurisdiction in this Court.

6. The allegations in Paragraph 6 are conclusions of law to which no response is required. Defendant does not dispute venue in this Court.

7. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 7 and, therefore, those allegations are denied.

8. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 8 and, therefore, those allegations are denied.

9. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 9 and, therefore, those allegations are denied.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 10 and, therefore, those allegations are denied.

11. Admitted.

12. Denied. The allegations in Paragraph 12 do not pertain to Defendant and, therefore, are denied.

13. Denied. The allegations in Paragraph 13 do not pertain to Defendant and, therefore, are denied.

14. Admitted.

15. Denied. The allegations in Paragraph 15 do not pertain to Defendant and, therefore, are denied.

16. Denied. The allegations in Paragraph 16 do not pertain to Defendant and, therefore, are denied.

17. Denied.

18. Denied.

19. Admitted in part, denied in part. Defendant admits only that Plaintiff Caccavale was employed by Hewlett-Packard Company from 1985 through October 2015. Defendant denies the remaining allegations in Paragraph 19.

20. Admitted in part, denied in part. Defendant admits only that Plaintiff Mangelli was employed by Hewlett-Packard Company from 1980 through October 2015. Defendant denies the remaining allegations in Paragraph 20.

21. Denied.

22. Admitted in part, denied in part. Defendant admits only that Plaintiff Billups was employed by Hewlett-Packard Company from approximately 2001 through October 2015. Defendant denies the remaining allegations in Paragraph 22.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Admitted in part, denied in part. HPI admits only that on November 1, 2015, HP Inc., formerly known as Hewlett-Packard Company, spun-off Hewlett Packard Enterprise Company pursuant to a separation agreement (the “Separation”), and since the Separation, HP Inc. and HPE have operated as independent, publicly-traded companies. HPI denies the remaining allegation in this paragraph.

38. Denied. The allegations in Paragraph 38 do not pertain to Defendant and, therefore, are denied.

39. Denied. The allegations in Paragraph 39 do not pertain to Defendant and, therefore, are denied.

40. Denied. The allegations in Paragraph 40 do not pertain to Defendant and, therefore, are denied.

41. Denied. The allegations in Paragraph 41 do not pertain to Defendant and, therefore, are denied.

42. Denied. The allegations in Paragraph 42 do not pertain to Defendant and, therefore, are denied.

43. Denied. The allegations in Paragraph 43 do not pertain to Defendant and, therefore, are denied.

44. Denied. The allegations in Paragraph 44 do not pertain to Defendant and, therefore, are denied.

45. Denied. The allegations in Paragraph 45 do not pertain to Defendant and, therefore, are denied.

46. Denied. The allegations in Paragraph 46 do not pertain to Defendant and, therefore, are denied.

47. Denied. The allegations in Paragraph 47 do not pertain to Defendant and, therefore, are denied.

48. Denied. The allegations in Paragraph 48 do not pertain to Defendant and, therefore, are denied.

49. Denied. The allegations in Paragraph 49 do not pertain to Defendant and, therefore, are denied.

50. Denied. The allegations in Paragraph 50 do not pertain to Defendant and, therefore, are denied.

51. Denied. The allegations in Paragraph 51 do not pertain to Defendant and, therefore, are denied.

52. Denied. The allegations in Paragraph 52 do not pertain to Defendant and, therefore, are denied.

53. Denied. The allegations in Paragraph 53 do not pertain to Defendant and, therefore, are denied.

54. Denied. The allegations in Paragraph 54 do not pertain to Defendant and, therefore, are denied.

55. Denied. The allegations in Paragraph 55 do not pertain to Defendant and, therefore, are denied.

56. Denied. The allegations in Paragraph 56 do not pertain to Defendant and, therefore, are denied.

57. Denied. The allegations in Paragraph 57 do not pertain to Defendant and, therefore, are denied.

58. Denied. The allegations in Paragraph 58 do not pertain to Defendant and, therefore, are denied.

59. Denied. The allegations in Paragraph 59 do not pertain to Defendant and, therefore, are denied.

60. Denied. The allegations in Paragraph 60 do not pertain to Defendant and, therefore, are denied.

61. Denied. The allegations in Paragraph 61 do not pertain to Defendant and, therefore, are denied.

62. Denied. The allegations in Paragraph 62 do not pertain to Defendant and, therefore, are denied.

63. Denied. The allegations in Paragraph 63 do not pertain to Defendant and, therefore, are denied.

64. Denied. The allegations in Paragraph 64 do not pertain to Defendant and, therefore, are denied.

65. Denied. The allegations in Paragraph 65 do not pertain to Defendant and, therefore, are denied.

66. Denied. The allegations in Paragraph 66 do not pertain to Defendant and, therefore, are denied.

67. Denied. The allegations in Paragraph 67 do not pertain to Defendant and, therefore, are denied.

68. Denied. The allegations in Paragraph 68 do not pertain to Defendant and, therefore, are denied.

69. Denied. The allegations in Paragraph 69 do not pertain to Defendant and, therefore, are denied.

70. Admitted.

71. Denied. The allegations in Paragraph 71 do not pertain to Defendant and, therefore, are denied.

72. Denied. The allegations in Paragraph 72 do not pertain to Defendant and, therefore, are denied.

73. Denied. The allegations in Paragraph 73 do not pertain to Defendant and, therefore, are denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

82. Denied. The allegations in Paragraph 82 do not pertain to Defendant and, therefore, are denied.

83. Denied. The allegations in Paragraph 83 do not pertain to Defendant and, therefore, are denied.

84. Denied. The allegations in Paragraph 84 do not pertain to Defendant and, therefore, are denied.

85. Admitted in part, denied in part. Defendant admits only that Plaintiffs seek certification of the putative classes described in Paragraph 85. Defendant denies that certification of any class is appropriate.

86. Admitted.

87. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 87 and, therefore, those allegations are denied.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations in Paragraph 92 and, therefore, those allegations are denied.

93. Denied.

94. Denied.

95. Denied.



96. Denied.

97. Denied.

98. Denied.

99. Denied. The allegations in Paragraph 99 do not pertain to Defendant and, therefore, are denied.

100. Denied. The allegations in Paragraph 100 do not pertain to Defendant and, therefore, are denied.

101. Denied. The allegations in Paragraph 101 do not pertain to Defendant and, therefore, are denied.

102. Denied. The allegations in Paragraph 102 do not pertain to Defendant and, therefore, are denied.

103. Denied. The allegations in Paragraph 103 do not pertain to Defendant and, therefore, are denied.

104. Denied. The allegations in Paragraph 104 do not pertain to Defendant and, therefore, are denied.

105. Denied. The allegations in Paragraph 105 do not pertain to Defendant and, therefore, are denied.

106. Denied. The allegations in Paragraph 106 do not pertain to Defendant and, therefore, are denied.

107. Denied. The allegations in Paragraph 107 do not pertain to Defendant and, therefore, are denied.

108. Denied. The allegations in Paragraph 108 do not pertain to Defendant and, therefore, are denied.

109. Denied. The allegations in Paragraph 109 do not pertain to Defendant and, therefore, are denied.

110. Denied. The allegations in Paragraph 110 do not pertain to Defendant and, therefore, are denied.

111. Denied. The allegations in Paragraph 111 do not pertain to Defendant and, therefore, are denied.

112. Denied. The allegations in Paragraph 112 do not pertain to Defendant and, therefore, are denied.

113. Defendant incorporates its responses to Paragraphs 1-112 by reference as if fully set forth herein.

114. Denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

121. Defendant incorporates its responses to Paragraphs 1-120 by reference as if fully set forth herein.

122. Denied. The allegations in Paragraph 122 do not pertain to Defendant and, therefore, are denied.

123. Denied. The allegations in Paragraph 123 do not pertain to Defendant and, therefore, are denied.

124. Denied. The allegations in Paragraph 124 do not pertain to Defendant and, therefore, are denied.

125. Denied. The allegations in Paragraph 125 do not pertain to Defendant and, therefore, are denied.

126. Denied. The allegations in Paragraph 126 do not pertain to Defendant and, therefore, are denied.

127. Denied. The allegations in Paragraph 127 do not pertain to Defendant and, therefore, are denied.

128. Denied. The allegations in Paragraph 128 do not pertain to Defendant and, therefore, are denied.

129. Defendant incorporates its responses to Paragraphs 1-128 by reference as if fully set forth herein.

130. Denied. The allegations in Paragraph 130 do not pertain to Defendant and, therefore, are denied.

131. Denied. The allegations in Paragraph 131 do not pertain to Defendant and, therefore, are denied.

132. Denied. The allegations in Paragraph 132 do not pertain to Defendant and, therefore, are denied.

133. Denied. The allegations in Paragraph 133 do not pertain to Defendant and, therefore, are denied.

134. Denied. The allegations in Paragraph 134 do not pertain to Defendant and, therefore, are denied.

135. Denied. The allegations in Paragraph 135 do not pertain to Defendant and, therefore, are denied.

136. Denied. The allegations in Paragraph 136 do not pertain to Defendant and, therefore, are denied.

137. Denied. The allegations in Paragraph 137 do not pertain to Defendant and, therefore, are denied.

138. Defendant incorporates its responses to Paragraphs 1-137 by reference as if fully set forth herein.

139. Denied. The allegations in Paragraph 139 do not pertain to Defendant and, therefore, are denied.

140. Denied. The allegations in Paragraph 140 do not pertain to Defendant and, therefore, are denied.

141. Denied. The allegations in Paragraph 141 do not pertain to Defendant and, therefore, are denied.

142. Denied. The allegations in Paragraph 142 do not pertain to Defendant and, therefore, are denied.

143. Denied. The allegations in Paragraph 143 do not pertain to Defendant and, therefore, are denied.

144. Denied. The allegations in Paragraph 144 do not pertain to Defendant and, therefore, are denied.

145. Denied. The allegations in Paragraph 145 do not pertain to Defendant and, therefore, are denied.

146. Denied. The allegations in Paragraph 146 do not pertain to Defendant and, therefore, are denied.

147. Defendant incorporates its responses to Paragraphs 1-146 by reference as if fully set forth herein.

148. Denied. The allegations in Paragraph 148 do not pertain to Defendant and, therefore, are denied.

149. Denied. The allegations in Paragraph 149 do not pertain to Defendant and, therefore, are denied.

150. Denied. The allegations in Paragraph 150 do not pertain to Defendant and, therefore, are denied.

151. Denied. The allegations in Paragraph 151 do not pertain to Defendant and, therefore, are denied.

152. Denied. The allegations in Paragraph 152 do not pertain to Defendant and, therefore, are denied.

153. Denied. The allegations in Paragraph 153 do not pertain to Defendant and, therefore, are denied.

Defendant denies that Plaintiffs and any putative class members are entitled to any relief, including without limitation that for which Plaintiffs have prayed.

Defendant denies that Plaintiffs and any putative class members are entitled to a jury trial on any issues for which the law does not provide a jury trial.

All allegations not specifically admitted are denied.

### **AFFIRMATIVE DEFENSES**

Without assuming the burden of proof for any matter/issue not imposed by law on it, Defendant asserts the following affirmative defenses to Plaintiffs' claims asserted against it:

1. The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.
2. Plaintiffs' claims against Defendant are barred in whole or in part by the applicable statute(s) of limitations.
3. During their employment with Defendant, Plaintiffs were not "manual workers" within the meaning of the New York Labor Law.
4. Plaintiffs' claims against Defendant are barred in whole or in part by the doctrine of laches.
5. Plaintiffs' claims against Defendant are barred in whole or in part by the doctrine of waiver.
6. Plaintiffs' claims against Defendant are barred in whole or in part by the doctrine of estoppel.
7. Plaintiffs' claims against Defendant are barred in whole or in part by the doctrine of consent.
8. Defendant acted in good faith and without malice, willfulness, or evil intent.
9. Defendant paid Plaintiffs in full and in a timely manner the compensation owed for all hours worked.
10. Plaintiffs fail to state a claim under NYLL § 191 or NYLL § 198 because NYLL § 198 does not permit a claim for liquidated damages relating to wages that were allegedly paid late but in full.

11. Plaintiffs fail to state a claim under NYLL § 191 or NYLL § 198 because Plaintiffs were not “manual workers” within the meaning of NYLL § 190(4).

12. Plaintiffs cannot establish or maintain a class action because they do not satisfy all of the requirements of Rule 23 of the Federal Rules of Civil Procedure, including without limitation because many putative class members signed releases and/or arbitration agreements that preclude their participation in any putative class Plaintiffs seek to represent.

In addition to the defenses stated above, Defendant reserves the right to assert any and all additional legal and/or equitable defenses that may become apparent during the course of discovery and/or trial.

**WHEREFORE**, Defendant respectfully requests that the Court dismiss the Complaint in its entirety with prejudice, that it enter judgment in Defendant’s favor against Plaintiffs on all claims in the Complaint, and that Defendant be awarded its reasonable attorneys’ fees and such other and further relief as the Court deems just and proper.

Dated: February 22, 2021

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